

Depositions taken under this section, held, in the light of art. 16, secs. 284 and 285, to be admissible in evidence under a rule of the circuit court for Cecil county providing for the filing of interrogatories with the clerk and the service of a copy thereof upon the adverse party or his counsel. *Turner v. Piercy*, 40 Md. 219.

This section referred to in construing sec. 17—see notes thereto. *Garrett v. Kerney*, 107 Md. 514; *Clark v. Callahan*, 105 Md. 610.

This section contrasted with sec. 21—see notes thereto. *Consolidated Ry. Co. v. O'Dea*, 91 Md. 512.

As to commissions to take testimony from other states, see sec. 36.

As to witnesses and testimony in equity, see art. 16, sec. 269, *et seq.*

See notes to sec. 21.

An. Code, sec. 17. 1904, sec. 17. 1888, sec. 16. 1888, ch. 545.

17. In addition to the mode prescribed in the preceding section, the testimony of non-resident witnesses may be taken by either party to any case in any court of this State, or before any justice of the peace of this State, upon giving notice of not less than five days to the opposite party of the time and place, when and where the testimony of such non-resident witnesses is proposed to be taken, and the name of the commissioner, notary public, or justice of the peace before whom the same is proposed to be taken, together with the names of the witnesses proposed to be examined; and the deposition of any such witnesses taken pursuant to such notice and duly certified by the officer taking the same, under his hand and seal, shall be admitted as evidence at the trial of the case as fully to all intents and purposes as if the same had been taken under a commission as prescribed in the preceding section. Depositions when taken under this section shall be signed by the witnesses unless their signature shall be waived by consent of the parties, and returned to the court in which the case is pending; and shall be treated in all respects as if taken under a commission regularly issued by said court, and shall be subject to the like exceptions as testimony taken under commission. It shall be competent for the parties to any case to dispense with formal notice of time and place and name of the officer before whom such depositions are to be taken, and by agreement to provide for the taking of such depositions; and the provisions of section 30 shall be applicable to all depositions taken under this section.

Evidence taken under this section while the case is on trial, upheld; discretion of court. Exception as to notice not passed on, as no rule of court or certificate on that subject was in record. *Rasst v. Morris*, 135 Md. 254.

This section does not affect the classification of witnesses whose testimony may be taken under sec. 16—see notes to sec. 16. *Mitchell v. Slye*, 137 Md. 103.

This section read in connection with sec. 16, applies to courts of law only, but when taken in connection with sec. 18, applies to courts of equity also. *Clark v. Callahan*, 105 Md. 610.

This section requires depositions to be signed by witnesses; separate certificates at conclusion of entire testimony signed by each witness, held a sufficient signature. *Potomac Works v. Barber*, 103 Md. 511.

When depositions are taken *ex parte* under this section, interrogatories should be filed with notary, and returned with depositions. Agreement of counsel. *Garrett v. Kerney*, 107 Md. 513.

Depositions taken in accordance with this section after due notice, and opposing counsel being present and cross-examine the witnesses, are admissible in evidence. *Jackson v. Jackson*, 80 Md. 194.

While the practice in regard to taking depositions under this section has not been definitely established, a party upon whom notice has been served may attend in person and cross-examine witnesses; and if he does so, he waives all objection to admissibility of depositions as a whole. *Goodman v. Sapperstein*, 115 Md. 681.

Cited but not construed in *Abramson v. Horner*, 115 Md. 235.